

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CHELCEE BRADY,

Plaintiff(s),

v.

SOUTHWEST AIRLINES CO., et al.,

Defendant(s).

Case No. 2:14-CV-2139 JCM (NJK)

ORDER

Presently before the court is defendant Davis Aircraft Products' ("Davis") motion to dismiss for lack of personal jurisdiction and, alternatively, failure to state a claim upon which relief can be granted. (Doc. # 14). Plaintiff Chelcee Brady filed a response, (doc. # 18), and defendant filed a reply, (doc. # 21).

**I. Background**

The instant action arises out of a personal injury suit. Plaintiff allegedly suffered brain trauma while on an airplane from Ontario, California, to Las Vegas, Nevada. On February 24, 2008 plaintiff was a passenger on Southwest Airlines ("Southwest") Flight 2809. (Doc. # 1). Davis manufactures and installs aircraft parts for commercial airlines, including Southwest. (*Id.*).

Plaintiff alleges that during her flight to Las Vegas the airplane experienced severe turbulence. (*Id.*). Plaintiff further claims that during the turbulence, plaintiff's seatbelt fitting failed and separated, causing plaintiff's head to violently strike the overhead storage bin. (*Id.*). Plaintiff asserts that this incident caused her traumatic brain injury. According to plaintiff's complaint, Davis manufactured the incident restraints on the aircraft where plaintiff was allegedly injured. (Doc. ## 1, 14).

1 Plaintiff initiated suit in this court on December 17, 2014, asserting a negligence claim.  
 2 (Doc. # 1). Defendant filed the instant motion to dismiss on May 4, 2015, arguing that the court  
 3 lacks personal jurisdiction and that plaintiff fails to state a claim upon which relief can be granted.  
 4 (Doc. # 14).

## 5 **II. Legal Standard**

### 6 *a. Motion to dismiss for lack of personal jurisdiction*

7 Personal jurisdiction over a defendant is proper when jurisdiction is provided for by law  
 8 and the exercise of jurisdiction comports with due process. *Walden v. Fiore*, 134 S.Ct. 1115, 1121  
 9 (2014). “Federal courts ordinarily follow state law in determining the bounds of their jurisdiction  
 10 over persons.” *Daimler AG v. Bauman*, 134 S.Ct. 746, 753 (2014). Nevada has authorized its courts  
 11 to exercise jurisdiction over persons “on any basis not inconsistent with . . . the Constitution of the  
 12 United States.” Nev. Rev. Stat. § 14.065.

13 Due process requires the defendant have at least “minimum contacts” with the forum state  
 14 so that “maintenance of the suit does not offend traditional notions of fair play and substantial  
 15 justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). “[T]he defendant’s conduct and  
 16 connection with the forum State [must be] such that he should reasonably anticipate being haled  
 17 into court there.” *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980). “[I]t is  
 18 the defendant, not the plaintiff or third parties, who must create contacts with the forum State.”  
 19 *Walden*, 134 S.Ct. at 1121.

## 20 **III. Discussion**

### 21 *a. Motion to dismiss for lack of personal jurisdiction*

#### 22 *i. General jurisdiction*

23 General jurisdiction is appropriate where a defendant’s activities in the forum state are so  
 24 “substantial” or “continuous and systematic” that the defendant is essentially at home in the forum.  
 25 *Daimler*, 134 S.Ct. at 754. “This is an exacting standard, as it should be, because a finding of  
 26 general jurisdiction permits a defendant to be haled into court in the forum state to answer for any  
 27 of its activities anywhere in the world.” *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797,  
 28 801 (9th Cir. 2004).

1 In order for general jurisdiction to be appropriate, “defendant's contacts [must] be of the  
2 sort that approximate physical presence.” *Bancroft & Masters, Inc. v. Augusta Nat’l. Inc.*, 223 F.3d  
3 1082, 1086 (9th Cir. 2000), *holding modified by Yahoo! Inc. v. La Ligue Contre Le Racisme Et*  
4 *L'Antisemitisme*, 433 F.3d 1199 (9th Cir. 2006).

5 It is true that Southwest flies to and from Nevada, but Davis has no significant contacts  
6 with Nevada aside from outfitting Southwest airplanes with parts. Davis has no agents or  
7 employees in Nevada, has no offices in Nevada, does not market its products in Nevada, and is  
8 neither incorporated nor licensed in Nevada. As a result, the fact that Davis outfits airplanes that  
9 travel to and from Nevada does not establish the continuous and systematic contacts required for  
10 this court to exercise personal jurisdiction over Davis.

11 In arguing that this court may still exercise general jurisdiction over Davis, plaintiff  
12 contends primarily that Davis manufactures aircraft safety components for large national and  
13 international customers such as Southwest and Boeing. (Doc. # 14). Plaintiff argues that it is  
14 “generally known” that Southwest transports passengers all over the world and thus, Davis knows  
15 that its products could travel anywhere in the country, including Nevada. (*Id.*).

16 Plaintiff further claims that Davis’s products traveling into Nevada via Southwest  
17 constitutes continuous and systematic contacts with Nevada. In particular, plaintiff argues that the  
18 high number of Southwest airplanes outfitted with Davis parts that travel to and from Nevada is  
19 alone sufficient for general personal jurisdiction. This argument is not persuasive.

20 With respect to Davis supplying parts for Southwest airplanes, the Supreme Court has  
21 expressly rejected the argument that placing items into the stream of commerce suffices for general  
22 jurisdiction. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2851 (2011)  
23 (holding the stream of commerce analysis “is an inadequate basis for the exercise of general  
24 jurisdiction”); *see also Fisher v. Prof’l Compounding Ctrs. of Am.*, 318 F. Supp. 2d 1046, 1050  
25 (D. Nev. 2004), *aff’d sub nom. Fisher v. Alfa Chem. Italiana*, 258 F. App’x 150 (9th Cir. 2007)  
26 (finding the stream of commerce analysis is inapplicable to general jurisdiction).

27 Accordingly, plaintiff has failed to establish the continuous and systematic contacts  
28 required for this Court to exercise general personal jurisdiction over Davis.

1                                   ii.    *Specific jurisdiction*

2           Where general jurisdiction is not found, a court may still exercise specific jurisdiction if  
 3 the defendant has sufficient minimum contacts with the forum state in relation to the cause of  
 4 action. Specific jurisdiction allows a court to hear claims that arise out of a defendant's activities  
 5 that are directed at the forum state. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985).  
 6 The Ninth Circuit has established a three-prong test for determining specific jurisdiction:

- 7           (1) The non-resident defendant must purposefully direct his activities or  
 8 consummate some transaction with the forum or resident thereof; or perform  
 9 some act by which he purposefully avails himself of the privilege of conducting  
 10 activities in the forum, thereby invoking the benefits and protections of its laws;  
 11 (2) the claim must arise out of or relate to defendant's forum-related activities; and  
 12 (3) the exercise of jurisdiction must comport with fair play and substantial justice,  
 13 i.e., it must be reasonable.

14 *Schwarzenegger*, 374 F.3d at 802.

15           The plaintiff bears the burden of satisfying the first two prongs. *Id.* If a plaintiff meets this  
 16 burden, a defendant hoping to defeat jurisdiction must show that the court's exercise of jurisdiction  
 17 would be unreasonable. *Id.*

18           Further, the plaintiff cannot be the defendant's only connection to the forum state. *Walden*,  
 19 134 S.Ct. at 1121. "[I]t is the defendant's conduct that must form the necessary connection with  
 20 the forum State that is the basis for its jurisdiction over him." *Id.* at 1122 (quoting *Burger King*,  
 21 471 U.S. at 478).

22           Defendant claims that it is not subject to specific jurisdiction because placing products into  
 23 the stream of commerce is insufficient for personal jurisdiction. (Doc. # 14). Plaintiff asserts two  
 24 bases for how Davis purposefully availed itself of the privileges and benefits of doing business in  
 25 Nevada: (1) NRS § 14.080 and (2) general purposeful availment. (Doc. # 18).

26           Plaintiff first claims that purposeful availment exists based on NRS § 14.080, Nevada's  
 27 products liability statute. The Nevada Supreme Court has given a broad interpretation to § 14.080.  
 28 *Abraham v. Augusta, S.P.A.*, 968 F. Supp. 1403, 1407 (D. Nev. 1997). However, "regardless of how  
 broad the construction of a state's long-arm statute, the state statute can never confer personal

1 jurisdiction beyond the limits imposed by the U.S. Constitution. *See Data Disc, Inc. v. Sys. Tech.*  
2 *Assoc.*, 557 F.2d 1280, 1286 (9th Cir. 1977).

3 “While this court is bound to follow the Nevada Supreme Court’s interpretation of the  
4 state’s long-arm statute, the due process question is a matter of federal law.” *Abraham*, 968 F.  
5 Supp. at 1407. Thus, the analysis for establishing personal jurisdiction is whether Davis  
6 reasonably expected to be haled into court in Nevada, also known as general purposeful availment.  
7 Plaintiff’s claim that § 14.080 confers jurisdiction is inaccurate.

8 Plaintiff subsequently asserts that personal jurisdiction exists under general purposeful  
9 availment. “The purposeful availment prong of the minimum contacts test requires a ‘qualitative  
10 evaluation of the defendant’s contact with the forum state,’ in order to determine whether ‘[the  
11 defendant’s] conduct and connection with the forum State are such that [the defendant] should  
12 reasonably anticipate being haled into court there.’” *Harris Rutsky & Co. Ins. Servs., Inc. v. Bell*  
13 *& Clements Ltd.*, 328 F.3d 1122, 1130 (9th Cir. 2003).

14 Davis claims that under plaintiff’s reasoning, Davis would be subjected to personal  
15 jurisdiction anywhere its customers do business. (Doc. # 21). Davis contends that such a holding  
16 would eliminate the “foreseeability” aspect of personal jurisdiction because Davis cannot control  
17 or anticipate where its customers do business. (*Id.*).

18 The court agrees with Davis. The fact that Davis sold products to a corporation that does  
19 business in Nevada does not show that it anticipated being haled into court here. *See Abraham*,  
20 968 F. Supp. at 1408-09 (citing *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-  
21 98 (1980) (“an out-of-state defendant can be found to have purposefully availed itself of the forum  
22 only on the basis of its own affirmative conduct directed at the forum”)); *see also Brand v. Menlove*  
23 *Dodge*, 796 F.2d 1070, 1075 (9th Cir. 1986) (“Because [defendant] did not engage in affirmative  
24 conduct. . .but rather passively made a sale it allegedly knew would affect that state, we conclude  
25 that [defendant] did not direct its activities purposefully”).

26 Plaintiff fails to identify any contact that establishes purposeful availment. Accordingly,  
27 the court may not exercise specific jurisdiction over Davis.  
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1                   iii.     *Jurisdictional discovery*

2             Plaintiff also seeks leave to take jurisdictional discovery. “Discovery may be appropriately  
3     granted where pertinent facts bearing on the question of jurisdiction are controverted or where a  
4     more satisfactory showing of the facts is necessary.” *Boschetto v. Hansing*, 539 F.3d 1011, 1020  
5     (9th Cir. 2008) (quoting *Data Disc, Inc. v. Sys Tech. Assocs.*, 557 F.2d 1280, 1285 n.1 (9th Cir.  
6     1977)). “Where a plaintiff’s claim of personal jurisdiction appears to be both attenuated and based  
7     on bare allegations in the face of specific denials made by the defendants, the Court need not permit  
8     even limited discovery.” *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1160 (9th Cir. 2006) (quoting  
9     *Terracom v. Valley Nat’l Bank*, 49 F.3d 555, 562 (9th Cir. 1995)).

10            For jurisdictional discovery to be warranted, plaintiff must provide some basis to believe  
11   that discovery will lead to relevant evidence and provide a foundation for the exercise of personal  
12   jurisdiction. Where courts have “little more than a hunch” that discovery might yield relevant facts,  
13   courts have denied jurisdictional discovery. *Boschetto*, 539 F.3d at 1020.

14            The jurisdictional discovery requested by plaintiff relates to Davis’s relationship with  
15   Southwest, not its relationship with Nevada. For example, plaintiff’s discovery topics include,  
16   “what portion of Southwest planes . . . used Davis’ seatbelts” and “communications between Davis  
17   and Southwest to determine if any communications were directed at Nevada.” (Doc. # 18). The  
18   answers to these questions are irrelevant to the jurisdictional inquiry and thus are insufficient to  
19   allow jurisdictional discovery. *See Martinez v. Aero Caribbean*, 764 F.3d 1062, 1070 (9th Cir.  
20   2014) (“[A] refusal [to grant discovery] is not an abuse of discretion when it is clear that further  
21   discovery would not demonstrate facts sufficient to constitute a basis for jurisdiction.”).  
22   Accordingly, plaintiff’s request for jurisdictional discovery will be denied.


23           **IV.     Conclusion**

24            Accordingly,

25            IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant’s motion to  
26   dismiss for lack of personal jurisdiction, (doc. # 14), be, and the same hereby is, GRANTED.  
27   Defendant Davis Aircraft Products is hereby DISMISSED from the case.  
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1 IT IS FURTHER ORDERED that defendant's motion for failure to state a claim upon  
2 which relief can be granted, (doc. # 14), be, and the same hereby is, DENIED as moot.

3 DATED July 6, 2015.

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5 UNITED STATES DISTRICT JUDGE  
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